

Decision **ALTERNATE PROPOSED DECISION OF COMMISSIONER GUZMAN ACEVES**
(Mailed 3/25/2019)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Southern California Edison Company
(U338E) for Approval of the
Results of its 2013 Local Capacity
Requirements Request for Offers for the
Moorpark Sub-Area.

Application 14-11-016

**DECISION GRANTING INTERVENOR COMPENSATION CLAIM OF
CENTRAL COAST ALLIANCE UNITED FOR A SUSTAINABLE ECONOMY
FOR THE JUDICIAL REVIEW PROCEEDING**

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| Intervenor: Central Coast Alliance United for a Sustainable Economy | For contribution to 3/27/18 dismissal of Court of Appeal case no. A150192. |
| Claimed: \$ 47,447.75 | Awarded: \$ \$25,684.25 |
| Assigned Commissioner: Michael Picker | Assigned ALJ: Regina M. DeAngelis |

PART I: PROCEDURAL ISSUES
(Completed by Intervenor except where indicated)

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| A. Brief description of Decision: | D.16-12-030 modified Decision (D.16-05-050), which approved 12 MW of preferred resources and a 20-year power purchase contract with NRG Energy Center Oxnard LLC (“NRG”) for the Puente Project, a 262 MW natural gas-fired peaker facility. The California Court of Appeal granted review of D.16-05-050, as modified by D.16-12-030, and requested supplemental briefing. Having secured the outcome it sought – a new SCE procurement plan and procurement process that sought renewable resources with a preference for Disadvantaged Communities and actively refused to seek gas-fired resources for those communities, Central Coast Alliance United for a Sustainable Economy (CAUSE) worked with the parties to secure dismissal of the appeal. |
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812¹:

| | Intervenor | CPUC Verification |
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| Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)): | | |
| 1. Date of Prehearing Conference: | January 28, 2015. | Verified. |
| 2. Other specified date for NOI: | Supplemental NOI filed within 30 days of filing of January 4, 2017 petition for review. | Verified. Supplemental NOI was filed on Feb. 2, 2017 |
| 3. Date NOI filed: | February 27, 2015. CEJA/CAUSE filed their Supplemental NOI February 2, 2017. | Verified. Supplemental NOI was filed on Feb. 2, 2017 |
| 4. Was the NOI timely filed? | | Yes. |

¹ All statutory references are to California Public Utilities Code unless indicated otherwise.

| Showing of eligible customer status (§ 1802(b)): | | |
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| 5. Based on ALJ ruling issued in proceeding number: | A.14-11-016 | Yes |
| 6. Date of ALJ ruling: | 3/24/15 | Verified |
| 7. Based on another CPUC determination (specify): | N/A | |
| 8. Has the Intervenor demonstrated customer status? | | Yes |
| Showing of “significant financial hardship” (§1802(h) or §1803.1(b)): | | |
| 9. Based on ALJ ruling issued in proceeding number: | A.14-11-016 | Yes |
| 10. Date of ALJ ruling: | 3/24/15 | Verified |
| 11. Based on another CPUC determination | N/A | |
| 12. Has the Intervenor demonstrated significant financial hardship? | | Yes |
| Timely request for compensation (§ 1804(c)): | | |
| 13. Identify Final Decision: | 3/27/18 dismissal of Court of Appeal case no. A150192. | Verified |
| 14. Date of issuance of Final Order or Decision: | 3/27/18 | Verified |
| 15. File date of compensation request: | 5/29/18 | Verified |
| 16. Was the request for compensation timely? | | Yes |

Additional Comments on Part I:

| # | Intervenor’s Comment(s) | CPUC Discussion |
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| 6 | Pursuant to the Administrative Law Judge's Ruling of March 24, 2015 on CAUSE’s NOI, CAUSE now clarifies that 100% of its members are residential ratepayers. | Noted |
| 10 | The Administrative Law Judge's Ruling of March 24, 2015 on CAUSE’s NOI ordered CAUSE to indicate in its Claim whether CAUSE has any committed grant funds for its participation in this proceeding. CAUSE does not have any committed grant funds for its participation in either the PUC proceeding or the litigation that grew out of it. | Noted. |

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| 15 | The CPUC was closed from Saturday 5/26/18, the 60th day after the 3/27/18 dismissal of the case, through Monday 5/28/18. “If a writ for review of a reheard decision is subsequently filed with the Courts, the Claim may be filed within 60 days of the issuance of the Courts’ decision or the CPUC’s decision closing the proceeding. (See § 1804(c) and Rules 17.3, and 17.4). Holiday Rule: If the 60th day falls on a day that the CPUC is closed, the filing is due on the next business day. (See Rule 1.15).” Intervenor Compensation Program Guide, p. 18. | Noted. |
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PART II: SUBSTANTIAL CONTRIBUTION
(Completed by Intervenor except where indicated)

A. Did the Intervenor substantially contribute to the final decision (see § 1802(j), § 1803(a), 1803.1(a) and D.98-04-059):

| Intervenor’s Claimed Contribution(s) | Specific References to Intervenor’s Claimed Contribution(s) | CPUC Discussion |
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| <p>CAUSE secured the final result it sought – an SCE Moorpark procurement process that included the statutory mandates of section 399.13(a)(7) and disfavor of gas in environmental justice communities. CAUSE secured the new Moorpark procurement during the course of and in part due to the petition for review. Once it became apparent CAUSE could secure the relief sought without the need for a final Court of Appeal decision, it approached the Commission and SCE regarding first staying the case, and finally jointly moving to dismiss.</p> <p>California law provides for recovery of attorney fees when a case acts as a catalyst for the change a plaintiff seeks. For example, the California Supreme Court held a “successful party” is one that achieves its litigation</p> | <ul style="list-style-type: none"> - Applicability of section 399.13(a)(7) and disfavor of gas-fired resources in environmental justice communities (Moorpark Sub-Area Local Capacity Requirements Procurement Plan of Southern California Edison Company Submitted to Energy Division Pursuant to D. 13-02-015. (“Procurement Plan”)); - applicability of section 399.13(a)(7) (Procurement Plan pp. 6, 8, 17, 38, 39); - applicability of disfavor of gas in environmental justice communities. (Procurement Plan pp. 8, 17, 38.) - See Cal. Code Civ. Proc. 1021.5; <i>Graham v. Daimler Chrysler Corp.</i> (2005) 34 Cal.4th 553, 560. | <p>Verified. See SCE procurement plan for Moorpark attached to Intervenor’s Compensation Claim as Attachment 2. The Moorpark sub-area local capacity requirements for procurement plan of SCE was submitted to energy division pursuant to D.13-02-015 and filed in R.12-03-014, Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans (IRP Proceeding) Also see Attachment 3 to Intervenor’s Compensation Claim, Order Granting Review November 28, 2017.</p> |

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| <p>objectives, not merely a party that secures a final court order mandating those objectives. What CAUSE sought, and what it secured, was a specific action by SCE. This is precisely what the Supreme Court contemplated: “‘...At the end of the rainbow lies not a judgment, but some action (or cessation of action) ...’” The litigation need not be the sole cause of the change, or the “but for” cause; it need only be one of the causes.</p> <p>Similarly, under Commission rules, petitioners are entitled to intervenor compensation when they make a substantial contribution to a “hearing or proceeding.” The final decision to which CAUSE contributed is the Court of Appeal’s grant of review, then voluntary dismissal of the petition for review. This decision occurred because of, and reflects, the work CAUSE invested in ensuring that SCE implement the rules and law governing procurement, to the benefit of the Moorpark subarea and the public at large.</p> | <ul style="list-style-type: none"> - Graham 34 Cal.4th at 571. - Id. at 571 (internal citations omitted). - Pub. Util. Code § 1804. | |
| <p>Issue 1 – Court of Appeal sought briefing regarding the basis for the Commission’s conclusion that section 399.13 did not apply.</p> | <p>- “1. Did the Commission in fact determine below that Public Utilities Code section 399.13 (section 399.13) does not apply to a utility’s conduct of an all-source request for offers, or did it misunderstand the argument presented to it and merely determine that the statute does not apply to its own review of contracts, like the Puente contract, that do not cover</p> | <p>Verified. See Attachment 2 to Intervenor’s Compensation Claim.</p> |

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| | <p>renewable energy resources?” (Order Granting Review, p. 2.)</p> <ul style="list-style-type: none"> - Petitioners argued that, in D.15-05-050 (as modified by D.16-12-030) the Commission approved the procurement process, including solicitation and procurement, in addition to the contracts that resulted from the solicitation and procurement. In so doing, the Commission explicitly concluded that the “the plain language of the statute” did not apply to all-source procurement. (Petition for Writ of Review, pp. 47-56; Petitioners’ Reply, pp. 14-18, 43-45.) - Petitioners argued the Commission had a duty to review SCE procurement to affirm compliance with section 399.13. “The Commission not only failed to require SCE to conduct its solicitation and procurement in accordance with all applicable laws and rules, but in so doing, failed to comply with its own duty to abide by statutory and decisional law.” (Petitioners’ Reply, p. 66.) - Petitioners argued the Commission did not make a legal interpretation of section 399.13 that would be subject to deference. (Petitioners’ Reply, pp. 18-40.) | |
| <p>Issue 2 – Court of Appeal sought briefing regarding whether analysis of SCE’s compliance with section 399.13 could have been forfeited, and whether the Commission had concluded petitioners had, in fact, forfeited the argument.</p> | <ul style="list-style-type: none"> - “2. Did the Commission’s discussion of the lack of objection to the Energy Division’s approval of the procurement plan of ...SCE amount to a rejection on forfeiture grounds of the argument that SCE failed to comply with section 399.13? Could that argument properly be rejected on forfeiture grounds?” (Order Granting Review, p. 2.) - The briefing discussed forfeiture in | <p>Verified. See Attachment 2 to Intervenor’s Compensation Claim.</p> |

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| | <p>terms of whether Commission’s failure to require SCE to implement 399.13 could be waived. “Of course, no procurement plan authorized by the Commission can trump a legislative requirement over which the Commission has no discretion to apply or waive. Further, Real Parties fail to cite any RPS decision discussing, let alone excluding any procurement from, the 399.13(a)(7) mandate.” (Petitioners’ Reply, p. 41.)</p> <p>- “Respondent seeks to reframe the issue by asserting that ‘[t]he issue is whether a solicitation, on whole, adequately solicited preferred resources.’ (PUC Answer at 22.) But ...the solicitation cannot be deemed adequate if [it] failed to comply with a legal mandate. Nothing in section 399.13(a)(7) suggests that the preferential treatment mandate can be waived as long as SCE on the ‘whole’ solicited renewables ‘adequately,’ or because it complied with other requirements.” (Petitioners’ Reply, pp. 44-45.)</p> | |
| Issue 3 – Standing and procedural review | <p>- Petitioners argued that CAUSE fully participated in the proceeding both in its own right and through its umbrella organization CEJA, and therefor had standing to seek and participate in appellate review. (Petitioners’ Reply, pp. 63-66; Petition for Review, p. 20.)</p> <p>- The Court of Appeal rejected CAUSE’s claim to standing, but granted it the right to participate in the appeal. “The petition for writ of review is granted with respect to Sierra Club and denied with respect to ...CAUSE....CAUSE is not precluded from continuing to participate in this matter because ‘each party to the action or proceeding before the [Public Utilities Commission] may</p> | <p>The claim demonstrates that the Court found CAUSE had a right to participate in the appeal because “each party to the action or proceeding before the [Commission] may appear in the review proceeding. See Attachment 3 to Intervenor’s Compensation Claim. 1801.3(d) requires a finding that the party made a substantial contribution to the proceedings of the Commission, regardless</p> |

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| | <p>appear in the review proceeding.’’ (Order Granting Review, p.1.)</p> <p>- The Court of Appeal concluded the record submitted was complete, and no oral argument was necessary. (Order Granting Review, pp. 1-2.)</p> | <p>of whether a settlement was reached. CAUSE participated in the underlying proceeding and judicial review before the Court of Appeal. The new Moorpark Procurement Plan that would not have occurred without Intervenor’s Writ for Review properly implements D.16-05-050 as amended by D.16-12-030. This constitutes a substantial contribution to the judicial review proceeding pursuant to Section 1802(a). The claim meets the requirements of Rule 17.4(a). of the Commission Rules of Practice and Procedure.</p> |
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B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

| | Intervenor’s Assertion | CPUC Discussion |
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| a. Was the Public Advocate’s Office at the California Public Utilities Commission (Cal Advocates) a party to the proceeding?² | No. | Verified. Cal Advocates did not participate in A150192 in the Court of Appeal |
| b. Were there other parties to the proceeding with positions similar to yours? | Yes. | Verified. |
| c. If so, provide name of other parties: Sierra Club filed a petition for rehearing with CEJA and a petition for review with CAUSE. | | Verified. |
| d. Intervenor’s claim of non-duplication: CAUSE partnered very closely with Sierra Club on the petition for review. As evidenced by CAUSE’s timesheets, its attorneys actively coordinated with Sierra Club | | N/A |

² The Office of Ratepayer Advocates (ORA) was renamed the Public Advocate’s Office at the California Public Utilities Commission (Cal Advocates), pursuant to Senate Bill No. 854, which the Governor approved on June 27, 2018.

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| to divide drafting and revision, as well as research and procedural matters. CAUSE attorneys conducted the majority of the drafting and revision, while Sierra Club provided feedback and litigation assistance. | |
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C. Additional Comments on Part II:

| # | Commission Discussion |
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| Part II | <p>1. Legal Framework for Determining Substantial Contribution</p> <p>Intervenor compensation “means payment for all or part, as determined by the commission, of ... reasonable costs of preparation for and participation in a proceeding and includes the fees and costs of obtaining an award under this article and of obtaining judicial review, if any.” (Section 1802(a).)</p> <p>““Proceeding”” means an application, complaint, or investigation, rulemaking, alternative dispute resolution procedure in lieu of formal proceedings as may be sponsored or endorsed by the commission, or other formal proceeding before the commission.” (Section 1802(g).)</p> <p>According to Section 1801.3, the statutory provisions on the Intervenor Compensation Program “shall apply to all formal proceedings of the commission involving electrical, gas, water, and telephone utilities.” Section 1801.3(d) states the legislative intent that “Intervenors be compensated for making a substantial contribution to proceedings of the commission, as determined by the commission in its orders and decisions, regardless of whether a settlement agreement is reached.” Section 1802(j) explains:</p> <p>“Substantial contribution” means that... the customer’s presentation has substantially assisted the commission in the making of its order or decision because the order or decision had adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer.</p> <p>Section 1804(c) requires that</p> <p>The request [for intervenor compensation] shall include ... a description of the customer’s ... substantial contribution to the hearing or proceeding.</p> <p>2. Facts Favor a Finding of Substantial Contribution</p> <p>CAUSE claims that it contributed to the new Moorpark procurement during the course of the proceeding and through the filing of a petition for review. The filing of the petition for review resulted in SCE making changes to its “Procurement Plan” consistent with the concerns raised by CAUSE, CEJA, and Sierra Club. The “Procurement Plan” is attached to Intervenor’s claim and was submitted to the Energy Division. The filing of the Petition for Review and participation by CAUSE in the judicial review process resulted in a procurement plan for Moorpark that incorporates and includes environmental justice considerations that otherwise would not have been included in the “Procurement Plan”</p> |

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| | <p>submitted to Energy Division.</p> <p>CAUSE contributed to the Court of Appeal’s granting of the petition for writ of review of November 28, 2017, attached to the claim. The Court’s grant of the petition and resulting “Procurement Plan” and settlement ensured application of environmental justice considerations identified in D.16-05-050 that otherwise would not have occurred.</p> <p>We note that D.05-02-003 declined to compensate Sierra Club’s work on the judicial review of Commission decisions. The Commission indicated that, among other things, the intervenor’s petition for writ of review was “unrelated to and unnecessary for a substantial contribution to a Commission decision” and noted the “lack of the necessary connection between substantial contribution to the Commission proceeding and costs incurred in seeking judicial review.”³ In this case we find that CAUSE’s participation in support of the petition for writ of review was necessary to ensure proper implementation of D.16-05-050 and does constitute a substantial contribution to a Commission proceeding.</p> <p>More recently, in the case of New Cingular Wireless, PCS, LLC vs. CPUC, the Court of Appeal vacated the Commission’s award of intervenor compensation. The Court held that the Commission framed its intervenor compensation decision “in terms so broad as to suggest that compensation was due simply as an ‘acknowledgement’ of participation” in the proceeding, “without any consideration given to the statutory requisites for awarding compensation.”⁴ The Court urged the Commission to “anchor its rationale in its own factual findings and show how those findings fit into the statutory language.”⁵ The Court states:</p> <p style="padding-left: 40px;">As we construe Article 5, so long as the advocacy of an intervenor claiming compensation contributes to a CPUC proceeding by “assist[ing] the commission in the making of” any “order or decision” (§1802, subd. (i)) and that “order or decision” is part of the “final” resolution of the proceeding (§1804, subds. (c) and (e)) – whether or not the proceeding is resolved on the merits – then the CPUC may “determine[]” whether in its “judgment” (§§1801.3, subd. (d), 1802, subd. (i)), the intervenor’s contribution was “substantial” enough to merit an award of compensation (§ 1803, subd. (a)).⁶</p> <p>In this case, the facts before us support a finding that CAUSE made a substantial contribution to the underlying proceeding. The compensation sought by CAUSE is for judicial review related to the issues that the party substantially contributed to in the underlying proceeding; environmental justice mandates on procurement.</p> <p>We recognize CAUSE’s effort at the Court of Appeal, as well as the fact that when circumstances underlying the appeal changed, CAUSE made a decision to discontinue the</p> |
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³ D.05-02-003, 2005 Cal. PUC LEXIS 72, *23.

⁴ 2016 Cal. App. LEXIS 298, *71

⁵ 2016 Cal. App. LEXIS 298, *73.

⁶ 2016 Cal. App. LEXIS 298, *72.

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| | appeal proceeding. The settlement of the petition for review in a manner that addressed all parties' concerns provided an effective, efficient, and just outcome that implemented critical factors involving environmental justice that otherwise would not have been included in the procurement plan. Based on the facts at hand, we find that CAUSE substantially assisted the commission in the making of its order or decision and thus contributed to a proceeding and order or decision (Section 1802(j)). Therefore, the claim of CAUSE is granted. |
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PART III: REASONABLENESS OF REQUESTED COMPENSATION
(Completed by Intervenor except where indicated)

A. General Claim of Reasonableness (§ 1801 and § 1806):

| | CPUC Discussion |
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| <p>a. Intervenor's claim of cost reasonableness: CAUSE has significantly reduced the hours it is seeking, both to eliminate any risk of duplication (as described below) and to reflect the fact that it does not have a final Court of Appeal decision detailing the contributions made by CAUSE. While CAUSE is seeking compensation for appellate work at the reasonable market rates for its attorneys, those rates are benchmarked by a 2008 fee decision, setting \$650/hr for an attorney of 18 years experience, which is the rate sought for Shana Lazerow, who was admitted to the bar in 1998, and \$600/hr for an attorney of 14 years experience, which is the rate sought for Gladys Limon, who was admitted to the bar in 2003. As explained in CAUSE's supplemental Notice of Intent, and supported by declarations of two established attorney practitioners, the rates of \$650 for Ms. Lazerow and \$600 for Ms. Limon are extremely reasonable.</p> | <p>Based on the CPUC discussion on substantial contribution in Part II, above, the reasonableness of the requested costs as adjusted by this decision is verified.</p> |
| <p>b. Reasonableness of hours claimed: The attorneys have significantly reduced the hours they are seeking, to eliminate any risk of duplication. When two attorneys met or teleconfered, only one attorney's time is sought. When one attorney drafted and another revised the same section of a document, only one attorney's time is sought.</p> <p>The attorneys also deleted time for categories of tasks that did not, on their face, contribute to the Court of Appeal's grant of review. For example, the petition for review spent significant time exploring the implications of race and the California-wide prohibition on discriminatory actions. None of this time was included for intervenor compensation. Further, no time is included for research and drafting for the Court of Appeal regarding amendments to code section 454.5. Most significantly, although it may have been a basis on which the Court of Appeal granted review, no time is sought for briefing applicability of D.07-12-052 for the Court of Appeal. Finally, although SCE's procurement plan is the document that embodies the significant contribution and ultimate efficacy of advocacy, all time spent reviewing and submitting comments regarding the 2018 SCE Moorpark Procurement Plan has been omitted. This resulted in deletion of</p> | <p>Based on the CPUC discussion on substantial contribution in Part II, above, the reasonableness of the claimed hours, as adjusted by this decision, is verified.</p> |

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| more than 60 hours of appellate time necessarily spent by Gladys Limon (for whom this request seeks 24.9 hours) and more than 90 hours of appellate time necessarily spent by Shana Lazerow (for whom this request seeks 47.7 hours.) | |
| <p>c. Allocation of hours by issue:</p> <p>Issue 1 – Court of Appeal sought briefing regarding the basis for the Commission’s conclusion that section 399.13 did not apply. – 47%</p> <p>Issue 2 – Court of Appeal sought briefing regarding whether analysis of SCE’s compliance with section 399.13 could have been forfeited, and whether the Commission had concluded petitioners had, in fact, forfeited the argument. – 13%</p> <p>Issue 3 – Standing and procedural review – 6%</p> <p>Issue 4 – General participation, including coordination with allies, in appellate court - 34%</p> | Based on the CPUC discussion on substantial contribution in Part II(C), above, the reasonableness of the allocation of hours is verified. |

B. Specific Claim:*

| Claimed | | | | | | CPUC Award | | |
|-------------------------------------|------|-------|-------|--|----------|------------|----------|------------|
| ATTORNEY, EXPERT, AND ADVOCATE FEES | | | | | | | | |
| Item | Year | Hours | Rate | Basis for Rate | Total \$ | Hours | Rate | Total \$ |
| Shana Lazerow (appellate) | 2016 | 20.4 | \$650 | <i>Environmental Law Foundation v. Laidlaw</i> , San Francisco Super. Case No. CGC-06-451832 (2008) (“ELF”) awarded \$650 for 18 yr practitioner | \$13,260 | 20.4 | \$350.00 | \$7,140.00 |
| Shana Lazerow (appellate) | 2017 | 22 | \$650 | <i>ELF</i> | \$14,300 | 21.60 | \$375.00 | \$8,100.00 |
| Shana Lazerow (appellate) | 2018 | 3.2 | \$650 | <i>ELF</i> | \$2,080 | 1.00 | \$385.00 | \$385.00 |
| Gladys Limon (appellate) | 2016 | 8.9 | \$600 | <i>ELF</i> awarded \$600 for 14 yr practitioner | \$5,340 | 8.9 | \$345.00 | \$3,070.50 |

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| Gladys Limon (appellate) | 2017 | 16.7 | \$600 | ELF | \$10,020 | 16.7 | \$350.00 | \$5,845.00 |
| Subtotal: \$ 46,365 | | | | | | Subtotal: \$ \$24,540.50 | | |
| OTHER FEES | | | | | | | | |
| Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.): | | | | | | | | |
| Item | Year | Hours | Rate \$ | Basis for Rate* | Total \$ | Hours | Rate | Total \$ |
| [Person 1] | | | | | | | | |
| Subtotal: \$ | | | | | | Subtotal: \$ | | |
| INTERVENOR COMPENSATION CLAIM PREPARATION ** | | | | | | | | |
| Item | Year | Hours | Rate \$ | Basis for Rate* | Total \$ | Hours | Rate | Total \$ |
| Shana Lazerow | 2017 | 6.1 | \$177.5 | D.18-03-028 set 2017 Lazerow rate of \$355 – divide by 2 for icomp | \$1,082.75 | 6.1 | \$187.50 | \$1,143.75 |
| Subtotal: \$ 1,082.75 | | | | | | Subtotal: \$ \$1,143.75 | | |
| COSTS | | | | | | | | |
| # | Item | Detail | | | Amount | Amount | | |
| 1 | | | | | | | | |
| Subtotal: | | | | | | Subtotal: \$ | | |
| TOTAL REQUEST: \$47,447.75 | | | | | | TOTAL AWARD: \$ \$25,684.25 | | |
| <p>*We remind all intervenors that Commission staff may audit the records and books of the intervenors to the extent necessary to verify the basis for the award (§1804(d)). Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenors' records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>** Reasonable Claim preparation time are typically compensated at ½ of preparer's normal hourly rate.</p> | | | | | | | | |
| ATTORNEY INFORMATION | | | | | | | | |
| Attorney | Date Admitted to CA BAR⁷ | | Member Number | | Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation | | | |
| Shana Lazerow | 1998 | | 195491 | | No. | | | |
| Gladys Limon | 2003 | | 228773 | | No. | | | |

⁷ This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

**C. Attachments Documenting Specific Claim and Comments on Part III:
(Intervenor completed; attachments not attached to final Decision)**

| Attachment or Comment # | Description/Comment |
|------------------------------------|--|
| 1 | Certificate of Service |
| 2 | Moorpark Sub-Area Local Capacity Requirements Procurement Plan of Southern California Edison Company Submitted to Energy Division Pursuant to D. 13-02-015 |
| 3 | Order Granting Review November 28, 2017 |
| 4 | Petition for Review |
| 5 | Petitioner's Reply |

D. CPUC Comments, Disallowances, and Adjustments

| Item | Reason |
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| Non-compensable costs | CAUSE's timesheet entries appear to include hours spent on the stipulation for an extension of time (Shana Lazerow's hours recorded on February 28, 2017 (0.4) and on January 14 and 18, 2018 (0.6 and 1.6)). Requests for an extension of time do not constitute substantial contributions and must be disallowed. |
| Hourly Rates | <p>CAUSE requests hourly rates of \$650 for its attorney Shana Lazerow's work before the Court of Appeal in 2016-2018, and \$600 for Gladys Limon's work before the Court of Appeal in 2016-2017. CAUSE's Supplemental Notice of Intent to Claim Intervenor Compensation filed on February 2, 2017, provides several declarations intended to support the requested hourly rates. We note that a declaration or a copy of the declaration of Adrienne Bloch to the Alameda Superior Court regarding Communities for a Better Environment's motion for attorneys' fees appears to be invalid since it is neither signed nor properly dated. A declaration of Richard Drury in Support of Sierra Club's Supplemental Notice of Intent to Claim Compensation, dated January 6, 2016, states attorney hourly rates awarded by the Superior Courts of Los Angeles and San Francisco, as well as commercial attorney rates. A declaration of Shana Lazerow dated February 2, 2017 states that the rates of \$650 was awarded to Ms. Lazerow by the San Francisco Superior Court in 2017, and that this rate is on the low end of the hourly rates for attorneys with the similar experience. The declaration further states that an hourly rate of \$600 for Gladys Limon requested by CAUSE is also on the low end of reasonable for someone with Ms. Limon experience. The declarant explains a contingent risk associated with bringing the appeal, reliance on the attorney fees recovery, and that litigating this case will prevent the attorneys from taking on less risky cases.</p> <p>The Commission has established hourly rates for the intervenor's attorneys through the rate ranges, depending on the number of years of the relevant experience, and</p> |

adopted cost-of-living adjustment (COLA). Shana Lazerow and Gladys Limon have the Commission-adopted hourly rates which are within the rate ranges for attorneys with the comparable experience.⁸ We have adopted the hourly rate of \$350 for Shana Lazerow's work in 2016,⁹ an hourly rate of \$375 for her work in 2017,¹⁰ and an hourly rate of \$385 for her work in 2018.¹¹ For Gladys Limon, we adopted an hourly rate of \$345 for her work in 2016,¹² and an hourly rate of \$350 for her work in 2017.¹³ The requested hourly rates constitute more than 70% increase from the authorized hourly rate for these attorneys.

Section 1806 states:

The computation of compensation ... shall take into consideration the market rates paid to persons of comparable training and experience who offer similar series. The compensation awarded may not, in any case, exceed the comparable market rate for services paid by the commission or the public utility, whichever is greater, to persons of comparable training and experience who are offering similar services.

Pursuant to these provisions, the Commission held that

The adopted hourly rates ranges are presumed reasonable. This presumption is conclusive, and an hourly rate request above the relevant adopted range is presumed excessive.”¹⁴

The Commission has approved rate increases beyond those generally adopted. These increases, however, are not limitless. In D.08-04-010, the Commission has explained these rate increases, as follows:

... where the intervenor engaged **outside** counsel for handling highly technical or complex matters, such as bankruptcy proceedings, and the rates billed by the **outside** counsel were greater than the highest rate authorized by the Commission for a given level of experience. We ... agree with the intervenors that proceedings potentially involving such specialized **outside** counsel or representations are very rare. [Emphasis added.] D.08-04-010 at 9.

We have also stated the Commission's authority to establish hourly rates for the

⁸ See Resolutions ALJ-329 adopting intervenor compensation rates for 2016 and addressing related matters, issued on May 20, 2016, at 4; Resolution ALJ 345 adopting intervenor compensation rates for 2017 and addressing related matters, issued on July 5, 2017, at 4; and Resolution ALJ-352 adopting intervenor compensation rates for 2018 and addressing related matters, issued on April 4, 2018, at 4.

⁹ D17-01-031 at 14.

¹⁰ D.18-10-051 at 23.

¹¹ D.18-10-051 at 23.

¹² D.17-01-031 at 14.

¹³ D.18-03-028 at 9.

¹⁴ D.08-04-010, Final Opinion Setting Hourly Intervenor Rates for 2008 and Addressing Related Matters at 9.

intervenor's representatives:

...Public Utilities Code Section 1801, et seq., does not require this Commission to determine and award the hourly rate an individual attorney receives based on their practice outside the Commission. ...

Section 1806 does not direct us to accept as a given an individual attorney's hourly rate based on what he or she makes outside the Commission. (D.05-01-059 at 15.)

Based on this principle, when an intervenor would engage its own staff counsel for a judicial review proceeding, we would approve the same hourly rates for the counsel as the previously Commission-adopted rates for the counsel's work or, if she did not have a Commission-adopted rate, based on the Commission-adopted hourly rates for intervenors with the comparable experience. See, for example, the relevant discussion in D.03-04-011 at 16-17; D.05-01-059, 2005 Cal. PUC LEXIS, 48, *21-23 and *76; D.14-11-018 at 31-32, and other decisions awarding hourly rates for an intervenor's staff counsel appellate work. Therefore, based on their previously adopted hourly rates, we approve the following rates for attorneys Shana Lazerow and Gladys Limon:

For Shana Lazerow's work in 2016 - \$350 (the hourly rate adopted in D.17-01-031), in 2017 - \$375 (the hourly rate adopted in D.18-10-051), and in 2018 - \$385 (the hourly rate adopted in D.18-10-051).

For Gladys Limon's work in 2016 - \$345 (the hourly rate adopted in D.17-01-031), and in 2017 - \$350 (the hourly rate adopted in D.18-03-028).

PART IV: OPPOSITIONS AND COMMENTS

Within 30 days after service of this Claim, Commission Staff or any other party may file a response to the Claim (*see* § 1804(c))

| | |
|---|----|
| A. Opposition: Did any party oppose the Claim? | No |
|---|----|

If so:

| Party | Reason for Opposition | CPUC Discussion |
|--------------|------------------------------|------------------------|
| | | |

| | |
|--|----|
| B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))? | No |
|--|----|

If not:

| |
|--|
| |
|--|

FINDINGS OF FACT

1. Central Coast Alliance United for a Sustainable Economy has made a substantial contribution to the judicial review proceeding.
2. The requested hourly rates for Central Coast Alliance United for a Sustainable Economy's representatives, as adjusted herein, are comparable to market rates paid to attorneys having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$25,684.25.00.

CONCLUSION OF LAW

1. The intervenor compensation claim of Central Coast Alliance United for a Sustainable Economy, with any adjustments as set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. Central Coast Alliance United for a Sustainable Economy shall be awarded \$25,684.25.
2. Within 30 days of the effective date of this decision, Southern California Edison Company shall pay Central Coast Alliance United for a Sustainable Economy the total award in the amount of \$25,684.25. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning August 12, 2018, the 75th day after the filing of Central Coast Alliance United for Sustainable Economy's request, and continuing until full payment is made.
3. This proceeding is closed.

This decision is effective today.

Dated _____, at Oxnard, California.

APPENDIX**Compensation Decision Summary Information**

| | | | |
|----------------------------------|------------------------------------|---------------------------|--|
| Compensation Decision: | | Modifies Decision? | |
| Contribution Decision(s): | Judicial Review | | |
| Proceeding(s): | A1411016 | | |
| Author: | ALJ DeAngelis | | |
| Payer(s): | Southern California Edison Company | | |

Intervenor Information

| Intervenor | Claim Date | Amount Requested | Amount Awarded | Multiplier? | Reason Change/Disallowance |
|---|-------------------|-------------------------|-----------------------|--------------------|---|
| Central Coast Alliance United for a Sustainable Economy | 05/29/18 | \$47,447.75 | \$25,684.25 | N/A | Adjusted hourly rates; non-compensable work |

Advocate Information

| First Name | Last Name | Type | Intervenor | Hourly Fee Requested | Year Hourly Fee Requested | Hourly Fee Adopted |
|-------------------|------------------|-------------|---|-----------------------------|----------------------------------|---------------------------|
| Shana | Lazerow | Attorney | Central Coast Alliance United for a Sustainable Economy | \$650 | 2016 | \$350 |
| Shana | Lazerow | Attorney | Central Coast Alliance United for a Sustainable Economy | \$650 | 2017 | \$375 |
| Shana | Lazerow | Attorney | Central Coast Alliance United for a Sustainable Economy | \$650 | 2018 | \$385 |
| Gladys | Limon | Attorney | Central Coast Alliance United for a Sustainable Economy | \$600 | 2016 | \$345 |
| Gladys | Limon | Attorney | Central Coast Alliance United for a Sustainable Economy | \$600 | 2017 | \$350 |

(END OF APPENDIX)